

Members

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Rep. Ed Mahern
Rep. Ralph Ayres
Rep. Kathy Richardson
Sen. Richard Bray, Vice-Chairperson
Sen. David Ford
Sen. William Alexa
Sen. Timothy Lanane
Chief Justice Randall T. Shepard
Judge Ernest Yelton
C. Joseph Anderson, Jr.
William Overdeer
Sarah M. Taylor



COMMISSION ON COURTS

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Authority: IC 33-1-15

MEETING MINUTES¹

Meeting Date: October 20, 1999
Meeting Time: 10:00 A.M.
Meeting Place: State House, 200 W. Washington
St., Room 431
Meeting City: Indianapolis, Indiana
Meeting Number: 4

Members Present: Rep. Jesse Villalpando, Chairperson; Rep. Ed Mahern; Sen. Richard Bray, Vice-Chairperson; Sen. David Ford; Sen. William Alexa; Judge Ernest Yelton; C. Joseph Anderson, Jr.; William Overdeer; Sarah M. Taylor.

Members Absent: Rep. Ralph Ayres; Rep. Kathy Richardson; Sen. Timothy Lanane; Chief Justice Randall T. Shepard.

I. Property Tax Appeal Procedures

The Commission's Attorney distributed a copy of Preliminary Draft ("PD") 3512 (2000). (A copy of PD 3512 (2000) is available from the Legislative Information Center as 'Exhibit 1'.) PD 3512 (2000) replaces PD 3088 (2000), which was previously distributed to the Commission.

PD 3512 (2000) contains proposed changes to the procedures used in property tax

¹ Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.ai.org/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

appeals. The Commission's Attorney said that the language in PD 3512 (2000) is the result of negotiations involving representatives of the Taxation Section of the Indiana State Bar Association, the State Board of Tax Commissioners, and the Judge of the Tax Court. The Commission's Attorney further described the proposed changes as changes designed to limit the authority of the Tax Court to conduct de novo proceedings concerning property tax appeals. In response to a question, he noted that the Preliminary Draft did not include any language that would change the composition of the Tax Court or change the procedure for directly appealing a decision of the Tax Court to the Supreme Court.

Larry Stroble, Barnes and Thornburg, explained to the Commission that he had participated in a number of discussions with the State Board of Tax Commissioners concerning the contents of PD 3512 (2000). He indicated that PD 3512 (2000) resolved many of the concerns that the Taxation Section of the Indiana State Bar Association had raised.

Stephen Paul, Baker & Daniels, stated that there was one unresolved issue. He indicated that he believed that there was a conflict between the language in SECTION 4 and SECTION 6 of PD 3512 (2000).

Bill Waltz, State Board of Tax Commissioners, stated that he did not believe that a problem existed. He said that the language in SECTIONS 4 and 6 is quoted from IC 4-21.5, which applies to all administrative adjudications subject to the Administrative Orders and Procedures Act. He noted that during the 1999 Session of the General Assembly the Taxation Section of the State Bar Association supported HB 1990 (1999). HB 1990 (1999) incorporated these provisions by referencing IC 4-21.5. However, Mr. Waltz said that, if the Commission concludes that a problem in the language exists, the State Board, Mr. Stroble, and Mr. Paul have worked out the following proposed change to SECTION 4:

Page 6, line 20, after "appeals." insert "**For purposes of this section, the tax court may not be considered to have substituted its judgment for that of the state board of tax commissioners, including its division of appeals, if it reverses a decision of the state board of tax commissioners, including its division of appeals, in accordance with the standards provided in section 14.7(e) of this chapter.**".

(Reference is to PD 3512 (2000).)

The Commission unanimously voted to recommend the enactment of PD 3512 (2000) as presented to the Commission. However, the Commission voted to recommend to the General Assembly that before enacting PD 3512 (2000) the General Assembly determine whether there is a conflict between SECTION 4 and SECTION 6.

II. Judicial Salaries

The Commission's Attorney distributed copies of the page of the 1998 Final Report of the Commission on Courts that dealt with the issue of judicial salaries. (The document is available from the Legislative Information Center as 'Exhibit 2'.) The Commission made the following findings and recommendation in 1998:

The Commission on Courts finds that a salary increase for court officers is needed. The Commission on Courts finds that the discretionary \$5,000 maximum county supplement should be eliminated.

Judge Mary Lee Comer, President of the Indiana Judges Association, distributed a

handout supporting an increase in judicial salaries. (The document is available from the Legislative Information Center as 'Exhibit 3'.) She requested that the Commission readopt its 1998 findings and recommendation supporting a judicial salary increase. She suggested that readoption of these findings and recommendation would not interfere with the work of the legislative study committee studying the creation of a salary commission to set salaries for elected officials. She explained that a salary commission would take some time to organize and develop a salary structure. She stated that there is a need for an immediate salary increase to retain and attract qualified judicial candidates. The Commission unanimously voted to readopt its 1998 findings and recommendation concerning judicial salaries.

III. Testimony Concerning Court Personnel

A. Allen County

Referee Cynthia Amber, Allen Superior Court, requested that the Commission recommend to the General Assembly that the General Assembly amend the law to replace the Allen Circuit Court hearing officer appointed under IC 33-4-1-2.8 with a full-time magistrate appointed under IC 33-4-7. She also recommended that the Allen Circuit Court be granted concurrent jurisdiction with the Allen Superior Court over Title IV-D matters. Referee Amber distributed written material to support her presentation. (A copy of the written material is available from the Legislative Information Center as 'Exhibit 4'.) She indicated that the Allen Circuit Court currently shares concurrent jurisdiction in paternity matters with the Allen Superior Court. She indicated that the Allen Superior Court has appointed the Allen Circuit Court hearing officer as a Title VI-D referee to serve the Allen Superior Court. In this capacity, the salary of the hearing officer is partially reimbursed with federal funds. She noted that her recommendation would facilitate the implementation of a family court concept in Allen County and eliminate a number of clerical difficulties. She said the judges of the Allen Circuit Court and the Allen Superior Court support the proposal.

B. DeKalb County

Judge Kevin Wallace, DeKalb Superior Court, and Judge Paul Cherry, DeKalb Circuit Court, testified in support of adding one superior court judge in DeKalb County. Judge Wallace indicated that a new judge would replace a part-time small claims referee serving the DeKalb Superior Court. He said that the 1998 weighted caseload statistics prepared by the Division of State Court Administration of the Supreme Court indicate that DeKalb County has a need for additional court officers. He indicated that the County has completed the remodeling of the Court House to provide space for the additional court. He included letters from the county commissioners, the county council, and the local bar association supporting the proposal as part of the written material that he distributed to the Commission. (A copy of the written material is available from the Legislative Information Center as 'Exhibit 5'.)

C. Howard County

The Commission's Attorney distributed a letter from Judge Lynn Murray, Howard Circuit Court, requesting that one additional full-time magistrate be appointed under IC 33-4-7 to serve the circuit and superior courts in Howard County. (A copy of the letter is available from the Legislative Information Center as 'Exhibit 6'.)

D. Huntington County

The Commission's Attorney distributed a letter from Judge Jeffery R. Heffelfinger,

Huntington Superior Court, requesting that one additional full-time magistrate be appointed under IC 33-4-7 to serve the circuit and superior courts in Huntington County. (A copy of the letter is available from the Legislative Information Center as 'Exhibit 7'.)

E. Lake County

The Commission's Attorney reported to the Commission that the Office of Judge Mary Beth Bonaventura had called. The Office communicated a request that the issue of adding an additional full-time magistrate to the Lake Superior Court, Juvenile Division, be withdrawn from consideration. The Commission tabled the issue.

F. Marion County

Judge Patricia J. Gifford, Presiding Judge of Marion Superior Court, requested that the Commission recommend to the General Assembly that two additional magistrates be appointed under IC 33-4-7 for the Marion Circuit Court and 16 additional magistrates be appointed under IC 33-4-7 for the Marion Superior Court. She indicated that there is a need for the additional court officers. She said that at least four of the magistrates would be used to assist the Juvenile Court. Some of the additional magistrates would be used to implement a family court concept in Marion County. She noted that delays caused by the current backlog in cases are particularly harmful in cases involving children and families. Judge Gifford distributed caseload statistics in support of her request. (A copy of the material is available from the Legislative Information Center as 'Exhibit 8'.)

In response to questions, Judge Gifford indicated that the judge of Marion Circuit Court and the judges of Marion Superior Court do not have an agreement with the Marion City-County Council concerning how and where to house the additional magistrates. She indicated that the Courts have commissioned a study to evaluate the space needs for the Courts. The Courts have received a preliminary copy of the report and are currently evaluating it.

Judge James W. Payne, who is assigned juvenile cases filed in Marion Superior Court, said that additional juvenile magistrates are needed to bring the workload for each magistrate down to a manageable level and to allow the Juvenile Court to better serve the public. Service options include extending the hours of the Court. Workload objectives include giving each magistrate more time to work with each child and more time to write orders. He distributed written statistics showing the increased demands being placed on the Juvenile Court. (A copy of the material is available from the Legislative Information Center as 'Exhibit 9'.)

The Commission's Fiscal Analyst distributed a copy of her fiscal analysis of the court and magistrate proposals reviewed by the Commission in this meeting. (A copy of the analysis is available from the Legislative Information Center as 'Exhibit 10'.)

IV. Recommendations Concerning Court Personnel

The Commission discussed the testimony received in this meeting and prior meetings concerning the need for changes in the number and status of court personnel serving the various counties. In response to a question, Lilia Judson, Executive Director of the Division of State Court Administration, said that a number of caseload plans, principally for counties and judicial districts with large urban populations, have not been finalized. She observed that efforts by the courts to develop caseload plans will reduce caseload disparities among the courts. However, the plans will not eliminate the overall need for an additional 80 court officers in Indiana. She distributed an adjusted weighted caseload chart, entitled "Adjusted

Weighted Caseload Measures—HB 1148", to show what impact HB 1148 (1999) will have on caseloads when it is fully implemented. (A copy of the written material is available from the Legislative Information Center as 'Exhibit 11'.) She also distributed an analysis of what effect the proposed county and district caseload plans would have on caseloads for counties with court personnel requests before the Commission. (A copy of the written material is available from the Legislative Information Center as 'Exhibit 12'.)

Representative Villalpando and Senator Bray reported the results of a meeting with Chief Justice Shepard. They concluded from the meeting that it would be advisable to allow the caseload planning process to run its course before the General Assembly creates new state-funded courts, judicial positions, and magistrate positions. However, requests that have strong local support and are principally aimed at improving a county's ability to manage the cases filed in its courts, such as the unified court proposal from Delaware County, the county court conversion proposal from Vigo County, and the referee proposal from Huntington County, should be given consideration by the General Assembly. The Commission concurred.

V. Preparation of a Final Report

Representative Villalpando directed the Commission Staff to prepare a Final Report for the Commission that reflected the actions taken by the Commission. Representative Villalpando directed the staff to circulate a draft copy of the report among the Commission members for comments.

Representative Villalpando indicated that this meeting would be the last meeting of the Commission in 1999. He thanked the members for their service. He then adjourned the meeting.